

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER N. WASHINGTON,  
Plaintiff,

v.

NURSE MAGADO,  
Defendant.

Case No. 21-cv-08126 BLF (PR)

**ORDER OF DISMISSAL**

Plaintiff, a state prisoner, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against medical staff at Salinas Valley State Prison (“SVSP”). Dkt. No. 1. On August 22, 2022, the Court found the amended complaint, Dkt. No. 8, stated a cognizable claim against Nurse Magado for deliberate indifference to serious medical needs and ordered the matter served. Dkt. No. 9. All other named Defendants were dismissed from the action as there were no cognizable claims against them. *Id.* The CDCR filed a response, stating that they are unable to identify “Nurse Magado.” Dkt. Nos. 10, 14. Accordingly, this sole Defendant has not yet been served.

On October 31, 2022, the Court directed Plaintiff to provide more information regarding this Defendant’s identity in order for the Marshal to serve this matter, or face dismissal under Rule 4(m) of the Federal Rules of Civil Procedure. Dkt. No. 15.

1 Thereafter, the Court granted two additional extensions of time, Dkt. Nos. 18, 20, such that  
2 Plaintiff's response was due by March 7, 2023. Dkt. No. 20. In the interest of justice, the  
3 Court also requested the Litigation Coordinator at SVSP to provide information, if any,  
4 regarding the identify of "Nurse Magado." Dkt. No. 21.

5 On March 10, 2023, Deputy Attorney General Iram Hasan made an appearance for  
6 the limited purpose of responding to the Court's request to the Litigation Coordinator.  
7 Dkt. No. 22. Counsel states that the Office of the California Attorney General conducted a  
8 comprehensive search for any person named "Magado" who worked at or visited SVSP in  
9 February or March 2020, a search through Plaintiff's medical records, and a search of  
10 California's professional licensing database. *Id.* at 2. Counsel states that these searches  
11 yielded no results of a person with the name "Magado." *Id.* Counsel states that the CDCR  
12 and SVSP have exhausted available sources of information with this search. *Id.*

13 Plaintiff was advised that since the matter has been pending for over 90 days,  
14 claims against Defendant Magado were subject to dismissal without prejudice absent a  
15 showing of "good cause." Dkt. No. 15 at 2, citing Fed. R. Civ. P. 4(m). Plaintiff was  
16 warned that if he failed to provide the Court with the information requested within the time  
17 provided, his claims against this Defendant would be dismissed without prejudice pursuant  
18 to Rule 4(m) of the Federal Rules of Civil Procedure and without further notice to Plaintiff.  
19 Dkt. No. 18 at 2; Dkt. No. 20 at 2-3.

20 The time to comply has passed, and Plaintiff has failed to provide any further  
21 information regarding the whereabouts of Defendant Magado. The Court has afforded  
22 Plaintiff ample time and opportunity to obtain a current location for Defendant Magado  
23 where she can be served in order to proceed with this action, and he has failed to do so.  
24 The CDCR and SVSP have also attempted to identify this Defendant but have yielded no  
25 results. Accordingly, the Court has no choice but to dismiss Plaintiff's claims against  
26 Defendant Magado without prejudice under Rule 4(m), and close this action.

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**CONCLUSION**

For the reasons discussed above, Plaintiff's claims against Defendant Nurse Magado are **DISMISSED** without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

The Clerk shall terminate any pending motions and close this action.

**IT IS SO ORDERED.**

**Dated: \_\_March 14, 2023\_\_**

  
BETH LABSON FREEMAN  
United States District Judge

United States District Court  
Northern District of California

Order of Dismissal  
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